ASCENTIVE, LLC v. GOOGLE, INC. Doc. 9

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ASCENTIVE, LLC, Plaintiff, v. GOOGLE, INC., Defendant.	Civil Action No. 2:09-cv-02871

DECLARATION OF ALEXIS ARENA

I, Alexis Arena, declare:

1. I am a lawyer at Flaster/Greenberg P.C., which is counsel for Ascentive, LLC ("Ascentive"), plaintiff in the above-captioned matter.

2. I submit this declaration in support of the motion for preliminary injunction of Ascentive. This declaration is based upon personal knowledge.

3. Attached as Exhibit 1 are true and correct copies of pages I printed from Google's website, following searches for "www.finallyfast.com" and "finallyfast.com" on July 15, 2009. Also attached are true and correct copies of pages I printed on July 15, 2009, after clicking on Google's links to Finally-Fast-PC.com and FinallyFast.us.

4. Attached as Exhibit 2 is a true and correct copy of an article I printed from CNN.com entitled "Google vs. Microsoft: What you need to know" on July 24, 2009 (emphasis added).

5. Attached as Exhibit 3 is a true and correct copy of pages I printed from Google's website regarding the website FinallyFast.us.

Dockets.Justia.com

6. Attached as Exhibit 4 is a true and correct copy of Google's AdWords program "Advertising Program Terms," and Google's Trademark Policy, which I printed from Google's website on June 22, 2009.

7. Attached as Exhibit 5 are true and correct copies of pages I printed from Google's website, following searches for "www.finallyfast.com" on July 1, 2009 and July 24, 2009.

8. Attached as Exhibit 6 are true and correct copies of pages I printed from Google's website, following a search for "pc speedscan", on July 16, 2009. This page shows a Google Sponsored Link advertisement with the headline "Pc Speedscans".

9. Attached as Exhibit 7 are a true and correct copies of printouts from Google's "Keyword Tool," which supplies advertisers with suggested keywords for any word they enter. *See* http://adwords.google.com/select/KeywordToolExternal. Google's Keyword Tool estimates that 110,000 Google users search for Ascentive's "FINALLYFAST" trademark per month.

10. Attached as Exhibit 8 are true and correct copies of correspondence between this law firm and Google's legal department, with account numbers redacted.

11. Attached as Exhibit 9 are true and correct copies of pages I printed from the website www.competitionequalizer.com, on July 18, 2009.

12. Attached as Exhibit 10 is a true and correct copy of pages I printed from Google's website indicating the volume of searches conducted for "www.finallyfast.com" during the last 12 months.

13. Attached as Exhibit 11 is a true and correct copy of a page I printed from the website http://searchanalytics.complete.com/site_referrals/finallyfast.us, on July 18, 2009, which includes an analysis of search traffic to the website www.finallyfast.us and the search keywords entered by internet users to reach the website www.finallyfast.us.

14. Attached as Exhibit 12 is a true and correct copy of an article I printed from the website http://news.cnet.com on July 17, 2009 (emphasis added).

15. Attached as Exhibit 13 is a true and correct copy of correspondence I sent to the owner of FinallyFast.us on June 4, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 24, 2009

Alexis Arena